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From: PID
Sent: Tuesday, 16 August 2022 4:54 PM
To: [redacted]
Subject: Omb ref: 2022-109664 [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Omb ref: 2022-109664

Dear discloser

I am writing in response to your email of 12 August 2022, regarding the Office's handling of your complaint about the Australian Public Service Commission's handling of a public interest disclosure.

You copied your email to the Ombudsman so that he would be aware of your concerns. He is aware of the complaint you made to this Office and the concerns you raised.

I considered your concerns and I understand you are dissatisfied with the time taken by our Office to investigate your complaint and, you want to be provided with a more regular and detailed explanation of the steps taken to investigate the complaint. I understand you are also concerned about the risk of reprisal against yourself and others.

Amie and Mark's contacts with you
In Amie's email to you on 8 July 2022, she explained that she was finishing with the Office that day. Amie told you that she was handing the investigation of your complaint to an experienced investigator, Mark. She explained that Mark would need time to familiarise himself with this complex investigation file and would provide an update to you on his progress within 3 months, by early October 2022.

On 12 July 2022, Mark replied to your email to Amie of 8 July 2022. Your email raised 2 issues, the first was concerns about reprisal and the second was a request to be updated on the status of the handling of your complaint, including whether a notice had been sent under s 8 of the *Ombudsman Act 1976* to the Australian Public Service Commission (APSC).

In relation to the first issue, Mark explained the Office informed relevant parties:

- it is an offence under s 19 of the *Public Interest Disclosure Act 2013* (PID Act) to take or threaten reprisal action
- of their obligations under s 59 of the PID Act to take reasonable steps to protect officials from detriment and threats of detriment and noted reprisal can include action taken against a third person.

In relation to the second issue, Mark told you the Office sent questions to the APSC and received its response. Mark explained that, once he reviewed the material already on the complaint file, he would consider the APSC's response. Mark explained that he had not yet determined whether further information may be required.

In his subsequent email to you on 12 August 2022, Mark explained that he would be on personal leave for 6 weeks and that, in the interest of continuity and efficiency, the complaint was expected to stay with him. I confirm this advice was correct and, on his return from personal leave, Mark will continue to progress the complaint investigation.

Your most recent email
In your email on 12 August 2022, you asked that we provide you with:

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1. the deadline that staff in this Office are working towards to finalise the investigation of your complaint
2. an update on the progress of the investigation of your complaint each month.

Firstly, there is no deadline to which staff in this Office are working to finalise the investigation of your complaint. While we endeavour to complete investigations in as timely a manner as possible, we will not seek to expedite our handling of a complaint if this would result in important issues not being afforded appropriate consideration.

In response to your second question, we have previously told you that you can expect an update by early October 2022. The level of additional detail that can be included in this update, which has not already been provided to you, will depend on the status of the investigation, including whether the investigation is ongoing at that time.

As we explained in our correspondence to you of 9 March 2022, we will continue to tell you what is happening with the complaint, but you will not be provided with information about our deliberative processes, the particulars of any inquiries our Office may make, or the information or evidence our Office is considering. Once finalised, we will explain the actions we took in response to the complaint and provide reasons for our decision. If you disagree with that decision, you can ask us to review it.

While I understand your frustration with the time this investigation is taking, I do not propose to agree to your request for monthly updates. Rather, we will provide you with an update on your complaint in early October as we previously undertook to do. At that time, we will tell you when you can expect a further update on your complaint.

After receiving your most recent correspondence and given Mark's current absence, I considered whether I should assign your complaint to another officer. However, after considering complexities of the issues raised and the fact that Mark is already familiar with this matter, I do not consider that another officer could progress the matter any sooner. As such, the matter will remain with Mark and he will prioritise it on his return.

Mark is a skilled and experienced senior investigator with this Office and I have full confidence in his ability to engage with the issues raised in the complaint and resolve it in a timely manner.

Thank you for bringing your concerns to the Ombudsman's attention.

Your sincerely

Kathleen
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Proud to be working on the lands of Ngunnawal and Ngambri peoples

COMMONWEALTH OMBUDSMAN

Influencing systemic improvement in public administration

The Office of the Commonwealth Ombudsman acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past and present.